

July 12, 2006

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: James H. Campbell

Date of Filing: March 20, 2006

Case Number: TFA-0155

On March 20, 2006, James H. Campbell filed an Appeal from a determination issued to him on February 22, 2006, by the Department of Energy's Oak Ridge Operations Office (Oak Ridge). That determination was issued in response to a request for information that Mr. Campbell submitted under the Freedom of Information Act, 5 U.S.C. § 552a, as implemented by the Department of Energy (DOE) in 10 C.F.R. Part 1004. Mr. Campbell asks that Oak Ridge conduct an additional search for documents responsive to his request.

I. Background

Mr. Campbell requested information regarding the industrial hygiene, medical, personnel and radiation exposure records for his deceased father, Everette Campbell. In his request, Mr. Campbell indicated that his father worked for Union Carbide Corporation and Martin Marietta Energy Systems, two former contractors at the BWXT Y-12 Plant, in the 1940s. Oak Ridge conducted a search by name and Social Security number for responsive material, but was only able to locate Mr. Everette Campbell's personnel security clearance card. On March 20, 2006, Mr. Campbell filed the present Appeal with the Office of Hearings and Appeals (OHA). In his Appeal, Mr. Campbell challenges the adequacy of the search conducted by Oak Ridge and asserts that there should be additional records related to his father in the possession of DOE.

II. Analysis

In responding to a request for information filed under the FOIA, it is well established that an agency must "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. United States Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). "The standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. United States Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); accord *Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. See, e.g., *Glen Milner*, 17 DOE ¶ 80,102 (1988).

We contacted Oak Ridge to ascertain the extent of the search that had been performed and to determine whether any other documents responsive to Mr. Campbell's request might reasonably be located. Upon receiving Mr. Campbell's request for information, Oak Ridge contacted the Oak Ridge National Laboratory, the BWXT Y-12 Plant and the K-25 Plant. Each plant searched its records by name and Social Security Number and found no records responsive to Mr. Campbell's request. *See* Record of Telephone Conversation between Leah Ann Schmidlin, Oak Ridge Operations Office, and Kimberly Jenkins-Chapman, OHA (June 8, 2006). In addition, Oak Ridge searched the DOE Records Holding Area for Archived Records where it had previously located the personnel security card of Mr. Everette Campbell. The DOE Records Holding Area for Archived Records contains archived records of individuals employed in the 1940s and earlier. *Id.* Oak Ridge informed our office that on many occasions contractors have taken their employee records with them when leaving a site. *Id.* For that reason, records of former Oak Ridge workers are far from complete. Based on the information above, we find that Oak Ridge has conducted a search reasonably calculated to uncover any records relating to Mr. Everette Campbell. Accordingly, we must deny this Appeal.

It Is Therefore Ordered That:

- (1) The Freedom of Information Act Appeal filed by James H. Campbell on March 20, 2006, OHA Case No. TFA-0155, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: July 12, 2006